

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 12 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CHERYL KATER, individually and on
behalf of all others similarly situated,

Plaintiff-Appellant,

v.

CHURCHILL DOWNS INCORPORATED,
a Kentucky corporation,

Defendant-Appellee.

No. 16-35010

D.C. No. 2:15-cv-00612-MJP
Western District of Washington,
Seattle

ORDER

Before: M. SMITH and MURGUIA, Circuit Judges, and ROBRENO,* District Judge.

The panel has unanimously voted to deny the petition for panel rehearing. Judges M. Smith and Murguia voted to deny the petition for rehearing en banc, and Judge Robreno so recommended. The full court has been advised of the petition for rehearing en banc and no judge of the court has requested a vote on it. Fed. R. App. P. 35.

The petition for panel rehearing and the petition for rehearing en banc are DENIED.

Defendant-Appellee's motion for judicial notice is DISMISSED AS MOOT.

* The Honorable Eduardo C. Robreno, United States District Judge for the Eastern District of Pennsylvania, sitting by designation.